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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,875	01/24/2006	David Small		7336
David Small 7590 03/21/2008				
Locata Corporation				
401 Clinics Ross Street				
Acton, 2601				
AUSTRALIA				
EXAMINER				
NGUYEN, NGA X				
ART UNIT		PAPER NUMBER		
3662				
MAIL DATE		DELIVERY MODE		
03/21/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/565,875

Applicant(s)

SMALL, DAVID

Examiner

NGA X. NGUYEN

Art Unit

3662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6, 11 and 19-31 is/are pending in the application.
4a) Of the above claim(s) 19-31 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 2-6 and 11 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 24 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/888)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claim 2-6 & 11 are drawn to "A method for determining attitude comprising a step of analyzing the relative movement of a receiver means to a radiating means by interpreting a cyclic Doppler a superimposed upon the received signals", which is classified in class 342, subclass 398.
 - II. Claims 19-31 are drawn to "A method for determining attitude comprising steps of 1st, 2nd, 3rd Doppler differences." which is classified in class 701, subclass 214.
2. Inventions, I-II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case subcombination I & II have two different methods. See MPEP § 806.05(d).
3. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:
 - (a) the inventions have acquired a separate status in the art in view of their different classification;
 - (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

(c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

(d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Examiner Response Election/Restrictions

4. Applicant's election with traverse of claims 1-6 & 11 are drawn to Group I in the reply filed on 2/4/2008 is acknowledged. Applicant argues on canceled claims 7-10 & 12-18 which causes Examiner can not address the arguments.
5. Newly submitted claim 19-31 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

- New claims 19-31 are drawn to a method for determining attitude comprising steps of 1st, 2nd, 3rd Doppler differences.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 19-31 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. Claim 2-6 & 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Fenton (6128557).

With regard to claim 2-3, 6 & 11, Fenton discloses:

- Transmitting a signal through a radiating means which moves pre-determinately through 3D space, such that a cyclic Doppler is superimposed upon the transmitted signal (see Fig.2, column 3, lines 3-15).
- Receiving the transmitted signal through a receiving which moves pre-determinately through 3D space, such that a cyclic Doppler is superimposed upon the received signal (see column 3, lines 16-26).
- Analyzing the relative movement of the receive means to said radiating means by interpreting the cyclic Doppler superimposed upon the received signal (see column 3, lines 35-50)
- Adjusting the movement of the receiving means to bring the cyclic Doppler superimposed upon the received signal to a predetermined value (see column 3-4, lines 59-10)
- Determining the attitude of the receiving means based on the interpreted the cyclic Doppler and based upon the adjustment required (see column 4, lines 21-31)

With regard to claim 4, Fenton teaches the pre-determined value of is a minimum (see column 4, lines 11-20)

With regard to claim 5, the pre-determinate movement of the receiving is a replica of pre-determinate movement of the radiating means (see column 4, lines 41-52)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NGA X. NGUYEN whose telephone number is (571)272-5217. The examiner can normally be reached on 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TARCZA H. THOMAS can be reached on (571) 272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NGA X NGUYEN
Examiner
Art Unit 3662

NXN
/Thomas H. Tarcza/
Supervisory Patent Examiner, Art Unit 3662